

AMENDED IN ASSEMBLY MAY 15, 2012

AMENDED IN ASSEMBLY MAY 1, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2323

Introduced by Assembly Member Perea

February 24, 2012

An act to add Section 40 to the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2323, as amended, Perea. State Board of Equalization: administration: opinions.

The California Constitution establishes the State Board of Equalization, and *existing law* prescribes its various powers and duties ~~in connection~~ with *respect to* various taxes *and fees*, including administration, assessment, and collection *and prescribes its functions with respect to property taxes*. The State Board of Equalization ~~also collects and administers various fees imposed under specified programs and serves as an arbiter for the resolution of disputes involving the imposition of fees and taxes, including those taxes administered by the Franchise Tax Board~~ *is the appellate body for disputes arising under franchise and income tax laws, it decides disputes arising under tax and fee laws administered by the board, and it decides specified petitions and applications arising under property tax laws.*

This bill would require the board to publish and make available on its Internet Web site a written formal ~~legal~~ opinion ~~or~~, a written memorandum opinion, *or a written summary decision* for each ~~case~~

decision in which the amount in controversy is \$500,000 or more, within 90 days of the date upon which the board rendered its decision. This bill would require each published opinion or decision to contain specified information, and would require the board to determine the precedential value of each formal opinion and each memorandum opinion at its discretion.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 40 is added to the Revenue and Taxation
2 Code, to read:
3 40. (a) The board shall publish ~~and make available~~ on its
4 Internet Web site a written formal ~~legal~~ opinion ~~or~~, a written
5 memorandum opinion, *or a written summary decision* for each
6 ~~case decision of the board~~ in which the amount in controversy is
7 five hundred thousand dollars (\$500,000) or more, *within 90 days*
8 *of the date upon which the board rendered its decision.*
9 (b) Each ~~published~~ formal opinion, memorandum opinion, and
10 *summary decision as described in subdivision (a)* shall include all
11 of the following:
12 (1) ~~Factual background.~~ *Findings of fact.*
13 (2) The legal issue or issues presented.
14 (3) Applicable law.
15 (4) Analysis.
16 (5) Disposition.
17 (6) Names of ~~concurring~~ *adopting* board members.
18 (c) (1) A board member may ~~write~~ *submit* a dissenting opinion
19 ~~should he or she disagree with the majority opinion~~ *setting forth*
20 *his or her rationale for disagreeing with the memorandum opinion*
21 *or formal opinion.*
22 (2) A board member may *submit a concurring opinion setting*
23 *forth the board member's rationale for agreeing with the result*
24 *reached in the memorandum opinion or formal opinion, if different*
25 *than the rationale set forth in the memorandum opinion or formal*
26 *opinion.*
27 (3) A dissenting opinion and a concurring opinion shall be
28 published in the same manner as prescribed in subdivision (a) for
29 a formal opinion or memorandum opinion.

1 ~~(d) The board shall determine the precedential value of each~~
2 ~~formal legal opinion and each memorandum opinion at its~~
3 ~~discretion.~~

4 *(d) A formal opinion or memorandum opinion adopted by the*
5 *board may be cited as precedent in any matter or proceeding*
6 *before the board, unless the opinion has been depublished,*
7 *overruled, or superseded. A summary decision may not be cited*
8 *as precedent in any matter or proceeding before the board.*

O